

Counter-Terrorism Prosecutions: Understanding the Statistics

The federal government has been recently criticized for unfairly targeting Arab Americans as part of its efforts to disrupt any potential acts of terrorism and to fight terrorism, both domestically and internationally. For a better understanding of the statistics and how the United States Attorney's Office operates in conjunction with law enforcement agencies, please see below.

United States Attorney Jeffrey G. Collins

Impact on Arab-Americans

Recent reports cite an increase in the number of Arab-American defendants charged with federal crimes since 9/11. There have been no allegations that anyone was unjustifiably prosecuted. Thus far, the Counter-Terrorism Unit of the United States Attorney's Office, which came into existence after the events of 9/11, has received no complaints that its prosecutions have been motivated by anything other than the evidence. Federal investigations are based on conduct, not ethnicity. Grand juries have indicted cases, juries have rendered convictions, and defendants have pleaded guilty to terrorism-related offenses all based on conduct.

The Department of Justice's heightened focus and increased resources devoted to terrorism cases has resulted in more cases being investigated and prosecuted in our district. In addition, new legislation has resulted in more terrorism-related cases being investigated and prosecuted. The USA Patriot Act permits criminal investigators to review intelligence information, which previously had been walled off to them. When reviewing intelligence files, criminal investigators sometimes discover that persons connected to terrorist organizations have also committed crimes within the United States. Terrorism recruiters or fundraisers are often involved in crimes that generate cash, such as mortgage fraud, credit card fraud, drug trafficking, trafficking in counterfeit or stolen goods, and contraband cigarette smuggling. Where the evidence supports it, those persons are now being charged with such crimes.

Terrorism Cases Are Seldom Filed as Terrorism Charges

One criticism is that investigations that are internally categorized within the Department of Justice as terrorism cases do not often result in the filing of

terrorism charges in court, per se. Instead, other non-terrorism charges are filed. This is not because terrorism charges did not “pan out.” Instead, it reflects the reality that terrorism cases encompass not just criminal acts but national security. As a result, the defendant’s connection to terrorism is often based on classified information that cannot be used in open court, often to the frustration of prosecutors. Nonetheless, if terrorists are involved in other criminal activity, we have a responsibility to charge them. Just as Al Capone was ultimately convicted of tax evasion, terrorism suspects will often be convicted of other crimes. To illustrate this point, below is an explanation of how some terrorism cases are investigated.

A Hypothetical Terrorism Case

Because we cannot comment on current cases or investigations, the following is a hypothetical, but realistic, case. Assume that there is reliable intelligence information that Person A, a non-immigrant alien, has been sending money to a designated terrorist organization overseas. To protect the sources of information, their names cannot be revealed. Nor can they ultimately testify if there is an indictment. In checking bank records, agents discover that Person A has indeed been depositing large amounts of cash and sending the funds to the country of Zandar, from whom we are unable to receive any further information because of lack of cooperation. Zandar is a country that the State Department has determined officially sponsors terrorism. Intelligence reports state that Person A attended an Al Qaeda training camp in the 1990s, was observed meeting with Al Qaeda recruiters in Europe, and now resides in the United States. He holds a PhD in nuclear engineering, but works at a gas station. Telephone records show he continues to communicate with members of the terrorist organization.

The case is then referred to the United States Attorney’s Office and is designated as a terrorism financing case. This designation is for internal use by the Department of Justice and does not dictate what, if any, charges will ultimately be filed in court. It does not appear in court records, so the person is not “labeled” a terrorist.

As the investigation continues, evidence is presented to the grand jury. Among other things, grand jury subpoenas are issued for additional records regarding the finances of Person A. An increasing amount of evidence develops that Person A, along with five other persons, have engaged in an extensive

mortgage fraud. Most of the proceeds of this mortgage fraud has been sent to Zandar. Eventually there is sufficient evidence to indict Person A and his five co-conspirators on a charge of bank fraud conspiracy for the mortgage fraud.

At the time of the arrest of Person A, a search warrant is executed at his residence. Agents discover that he has been corresponding with other persons throughout the United States who have links to the designated terrorist organization. They also discover a great deal of propaganda espousing the terrorist goals of the terrorist organization.

Person A and his co-conspirators are convicted of a conspiracy to commit bank fraud. Person A receives a prison term of five years, after which he is to be deported. Because of the inability to call the original sources of information as witnesses and the inability to track the money once it reached Zandar, there is not sufficient evidence to charge Person A with 18 U.S.C. § 2339B. (Providing material support or resources to designated foreign terrorist organizations). Nevertheless, there is a strong basis to conclude that Person A was indeed supporting a designated terrorist organization, and that his financing of that organization has now been disrupted. Whether he was, in fact, funding the terrorist organization, the bank fraud charge is a meritorious charge in its own right.

Investigations, Not Witch Hunts

We investigate cases thoroughly. If someone has provided false information that another person has been involved in terrorist activity, our office takes vigorous enforcement action against the person providing false information. After one such investigation, our office prosecuted a defendant for perjury for falsely testifying before a grand jury that local Arab-Americans were involved in a plot to commit a terrorist attack in Detroit.

Law Enforcement's Relationship with Arab-American Community

We are very proud of the relationship our office has built with the Arab-American community in our district. We helped found a group called BRIDGES, which stands for Building Respect in Diverse Groups to Enhance Sensitivity. BRIDGES is an outgrowth of monthly meetings with Arab-American leaders that began shortly after 9/11. Arab-Americans continue to be some of our most patriotic Americans, who want to help law enforcement in the fight against

terrorism. Imad Hammad, Michigan Director of Arab-American Anti-Discrimination Committee, chairs BRIDGES with U.S. Attorney Jeffrey G. Collins. The members are twelve leaders of various Arab-American community groups and six leaders of federal law enforcement agencies, including the FBI, the Bureau of Immigration and Customs Enforcement, Bureau of Alcohol, Tobacco and Firearms, and the U.S. Secret Service. During our monthly meetings, law enforcement representatives talk with community leaders to foster mutual understanding and cooperation. According to Northeastern University Law Professor Deborah Ramirez, who heads Partnering for Prevention, an initiative for achieving successful partnerships between law enforcement and community groups, “the Dearborn/Detroit area is the ‘gold standard’ for law enforcement partnerships with the Arab, Muslim, and Sikh Communities.” We owe that relationship in large part to the Arab-American leaders in our community who have worked cooperatively with law enforcement agencies to build public trust.

Increased Enforcement: Immigration Violations, Visa Fraud, and Passport Fraud

The increase in the number of immigration cases involving non-citizens of Arab descent in our district is not surprising given the demographics of our district. Since September 2001, federal law enforcement has significantly increased resources and efforts in investigating crimes based on illegal immigration, visa fraud, and passport fraud.

Hawalas

Another recent initiative impacting the Arab-American community has been the enforcement of laws aimed to prevent the movement of funds overseas for illegal purposes. There have been a series of investigations of unlicensed money remitting businesses, called **hawalas**, operating between the United States and Yemen. It is estimated that as much as \$50 million per year has been illegally transmitted from Michigan to Yemen. Such businesses are required to register and comply with financial institution reporting requirements under provisions of the USA Patriot Act, enacted after 9/11. These investigations have led to charges against several persons.

Hawalas are partially built on schemes to defraud governments of taxes and regulatory fees. It is a method of money laundering, and it is sometimes used to

move money between terrorists. Hawala techniques were used to move Al Qaeda and Taliban funds from Afghanistan. But the hawala system is also a very efficient way in which wage earners can send money to family members in foreign countries without having to pay the high fees banks charge. While some hawala customers are legitimate, the hawala is a mechanism that can be exploited by terrorists to send money from the United States overseas. Therefore, disrupting unlicensed money transmitters can disrupt the financing of terrorist operations.